

REMARKS

At the outset applicants wish to thank the Examiner for indication of allowable subject matter in claims 2-4. The claims have been amended to eliminate dependency on rejected claims and therefor are believed in condition for allowance.

Claims 5 has been rejected under 35 U.S.C. Section 112 for lack of antecedent basis for the term “electrically inductive current collector members.” The claim has been amended to provide the antecedent basis.

Claim 1 has been rejected under 35 U.S.C. Section 102 as anticipated by United States Patent No. 4,182,246 to Sugalski. This rejection is believed inapplicable to claim 1, as amended to specify an integral beryllium window member.

It is well established that to anticipate a claimed invention, a prior patent must disclose each and every limitation of the claim. In the present case, claim 1 is directed to a “system for *in situ* x-ray study of electrode component performance” including “an integral...beryllium window.” Sugalski is not a system for x-ray study and is devoid of the recited beryllium window. The Examiner is correct that Sugalski encloses a glass encapsulant, but the glass encapsulates the entire structure and there is no mention of x-ray testing or a beryllium window.

Claim 1 is also rejected under 35 U.S.C. as obvious in view of United States Patent No. 5,635,138 to Amatucci *et al.* in view of Sugalski.

The Examiner maintains that Amatucci *et al.* disclose testing by placing unsealed battery components in the enclosure of a cell holder that includes an x-ray transmissive beryllium window. It is the Examiner’s position that in view of the hermetic

sealing of battery components in Sugalski, it would be obvious to seal the battery components of Amatucci *et al.* This rejection is respectfully traversed.

It is well established that for a combination of references to make obvious a claimed invention, the references must teach or suggest each and every limitation of the claim. In the present case, claim 1 calls for an enclosing system including an integral x-ray window. Neither of the references teaches or suggests a window integral with the enclosure.

Applicant's specification points out that *in situ* x-ray study is important for studying electrochemical cell component performance and specifically acknowledges prior arrangements for such study including the cited patent to Amatucci *et al.* (See specification, p. 1, lines 2-3 *et seq.*). Applicants pointed out that Amatucci provided reliable test results for a single cell under study, but required considerable effort in comparative testing of a series of cells (p. 2, lines 4-17):

Although the prior apparatus and the method of its application provided sufficiently reliable test results for the evaluation of a single cell then under examination, the extensive manipulation of cell members during the required assembly and lamination of multiple test cells, as well as the alignment of apparatus elements, contributed to an inordinate expense of time and represented a source of unpredictable test parameter variations. These disadvantages were particularly notable, for example, in the oft-practiced comparative testing of series of cells varying in minor electrode component ratio adjustments. Such lack of consistent and precisely reproducible cell assembly and test conditions have led to significant difficulties in optimizing compositions for commercial rechargeable electrochemical cells.

The specification then teaches that these difficulties can be alleviated by a new testing arrangement wherein the x-ray window comprises an integral part of the hermetic enclosure, thereby fixing "the spatial relationship between the electrochemically active cell members and the beryllium viewing window" (p. 3, lines 19-23). As a result (p. 2, lines 30-33):

The fixed physical relationship of cell components and the ready manipulation of cell assembly members ensures rapid and economical fabrication of consistent test cells, as well as reproducible examination results.

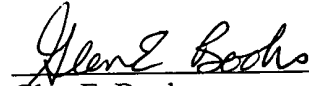
There are no comparable teachings in any of the cited references. Amatucci is devoid of such an integrated window and Sugalski has nothing to do with x-ray testing. Neither reference teaches or suggests that an x-ray window be integrated with the enclosing members. Accordingly the proposed combination does not make obvious the invention of claim 1 or its dependent claims.

Claim 5 is rejected under 35 U.S.C. Section 103 as unpatentable over Amatucci and Sugalski further in view of United States Patent No. 6,413,667 issued to Gozdz. Gozdz, which is cited only for the use of a polymeric battery enclosure, does not remedy the deficiencies of Amatucci and Sugalski. None of the three references teaches or suggests a test device having an enclosure with an integral x-ray window. Accordingly they do not make obvious the invention of dependent claim 5.

In view of the foregoing, it is respectfully submitted that claims 1-5, as amended, now fully comply with the provisions of 35 U.S.C. Sections 112, 102 and 103.

Accordingly this case is now in condition for allowance. Reconsideration and favorable action in this regard is therefore earnestly solicited.

Respectfully submitted,



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